Testimony of

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SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

Regarding

PUBLIC-PRIVATE PARTNERSHIPS:
STATE AND USER PRESPECTIVES

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Submitted by

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Good morning Chairman Defazio, Ranking Member Duncan and members of the Subcommittee. Thank you for inviting me to testify this morning. Public-private partnerships have obviously garnered a tremendous amount of attention as states and the federal government face difficult decisions related to the funding needs for our roads, bridges and tunnels.

My name is Todd Spencer. I have been involved with the trucking industry for more than 30 years, first as a truck driver and owner-operator; and then as a representative for our nation's small-business trucking professionals and professional truck drivers. I am currently the Executive Vice President of the Owner-Operator Independent Drivers Association (OOIDA).

OOIDA is a not-for-profit corporation established in 1973, with its principal place of business in Grain Valley, Missouri. OOIDA is the national trade association representing the interests of independent owner-operators and professional drivers on all issues that affect small-business truckers. The more than 153,000 members of OOIDA are small-business men and women in all 50 states who collectively own and operate more than 260,000 individual heavy-duty trucks. Owner-operators' trucks represent nearly half of the total number of Class 7 and 8 trucks operated in the United States.

The Association actively promotes the views of small business truckers through its interaction with state and federal regulatory agencies, legislatures, the courts, other trade associations and private entities to advance an equitable business environment and safe working conditions for commercial drivers. Public-private partnerships and all other highway-funding mechanisms used by the federal and state governments have a direct impact on the livelihoods of all truckers.

As such, OOIDA has been engaged in the debate regarding public-private partnerships for quite some time, including actively opposing the long-term leases of the Chicago Skyway and the Indiana Toll Road. OOIDA also played an integral role in the formation of the Americans for a Strong National Highway Network – a coalition of national organizations representing a full range of highway users that are working together to oppose the outright sale of public highways to private companies, while also working to identify viable funding solutions for our nation's infrastructure needs.

Truckers are Vested Stakeholders

Small business trucking professionals know first-hand that America's economic future and ability to compete in the global marketplace relies on the existence of a safe, secure, seamless, reliable, and efficient national highway network. Small business truckers (companies operating six or fewer trucks) comprise close to 90 percent of the motor carrier industry. Considering that roughly 69 percent of freight tonnage in the United States is moved by truck, it is certainly not a stretch to say that small business truckers are truly the backbone of our nation's economy.

On average, these small business truckers drive more than 115,000 miles per year, which adds up to more than 3 million miles in their lifetimes, and spend more than 240 nights per year away from home. They transport virtually every type commodity that moves in commerce, particularly those that require special handling.

Small business truckers typically pay in excess of $10,000 in federal taxes and state taxes of more than $6,000 per truck each year. To put some perspective on that $16,000 paid in taxes, that equates to about half of the annual net income of the average truck driver.

OOIDA members and other trucking companies make a significant financial contribution to federal and state governments' transportation funds through a combination of taxes. Taxes they pay into the federal Highway Trust Fund include a 24.4 cent per gallon federal diesel tax, 12 percent excise taxes on new equipment, an annual Heavy Vehicle Usage Tax, and tire taxes. In addition, truckers must pay state fuel taxes, weight mileage taxes, licensing and registration fees. Heavy-duty trucks account for less than 10 percent of our nation's highway traffic, yet contribute at least 36 percent of the money going into the federal Highway Trust Fund.

Public-Private Partnerships and Privatization

Not all public-private partnerships related to highway infrastructure are created equal and OOIDA does not oppose all PPPs. There certainly are situations where it makes good sense for public entities to team up with the private sector on infrastructure projects and where private sector money can help to jumpstart projects that will add capacity to our nation's roadway systems. However, every transportation deal should be entered into cautiously with all factors being weighed and with total confidence that the overall net benefits clearly side with the public. All public-private partnerships should be done transparently and with full input from the public including highway users.

There are major differences between so-called "brownfield" and "greenfield" projects. Brownfields generally being the term used to reference existing infrastructure and greenfields referencing projects where a new infrastructure or additional capacity is being planned.

It seems the most aggressive proponents of PPPs in the United States, including the U.S. Department of Transportation, have done a real disservice to the overall advancement of PPPs by focusing the majority of their promotional energy on deals involving brownfields. In regards to the efforts of those proponents and with in recognition that Pennsylvania, New Jersey and several other states are actively moving toward long-term lease deals with private companies, this morning I will primarily focus on these "asset transfer" public-private partnerships that we feel flatly equate to privatization.

To be very clear, OOIDA and its members are adamantly opposed to the long-term leasing (also referenced as asset transfer, selling, monetizing or privatizing) of existing publicly owned infrastructure to private entities. Our interstates and highways were built to provide the citizens of our nation with the ability to move about freely as well as to move freight in an efficient and affordable manner for the benefit of the citizens and our economy. "User fees" paid by the motoring public, primarily through fuel taxes, have provided the capital for building and maintaining those roads. Our interstates and highways, including those with tolls, were not built to become profit centers or cash cows for the public or the private sectors.

Proponents have justified long-term leasing/selling of major toll roads by pointing to cash that will be made available through these deals to state government to use for other state transportation projects or non-transportation programs. And, admittedly, private companies seem willing to put up some extraordinary amounts of money to entice states into selling their roads.

Regardless how the money is ultimately going to be used, two things are very clear – the private companies will make healthy profits from the deals and the users of those toll roads will be fleeced for much more than just the operating and maintenance costs of those roadways. In these situations, tolls cease to be "user fees" as they were originally intended. Rather, to paraphrase Dennis Enright of the NW Financial Group, the tolls will now have become "corridor taxes."

Proponents of highway privatization also gloss over the principal reason that companies are willing to put up large lump sums of cash for long-term deals – that is the prospect of collecting consistently increasing tolls. As the old adage goes, "there ain't no such thing as a free lunch." The money made available to the states and the profits private companies enjoy in these deals are not generated from some magical rearrangement of assets or change in operating procedures. The vast majority of that money, if not all of it, ultimately comes from the private operators' ability to increase tolls year after year. The greater the company's ability to increase tolls, the more they will be willing to shell out up front for the deal.

The "concessionaire agreements" for both the Chicago Skyway and the Indiana Toll Road deals include clauses permitting annual increases in tolls that are tied to the highest of three benchmarks: the consumer price index, the nominal gross domestic product per capita or 2 percent a year. To put this in perspective, during the past 60 years the nominal GDP per capita has grown by an average of 7 percent per year and the has grown CPI by about 4 percent annually. Before the lease, Governor Mitch Daniels of Indiana enacted a hefty phased-in toll increase to attract private companies to bid on the Indiana Toll Road. Tolls on the Indiana Toll Road have already risen by more than 50 percent for trucks since last year at this time. And, they are scheduled to increase an additional 113 percent before the private concessionaire's begin their annual increases in 2009.

Imposing significant tolls on Interstate highways without corresponding tax abatement will force truckers and other highway users to use alternative routes such as local roads and state highways that were not intended for the type and volume of traffic that Interstate highways are designed to handle. The decision of truck drivers to use these less suitable routes is not based on an attempt to maximize their profits; rather it's an exercise in survival. The high tolls can impose a severe financial hardship on small-business truckers who are already coping with narrow to non-existent profit margins. Since small business truckers are paid by the mile and not by the hour, waiting in traffic on secondary roads is often better than shaving a few hours off of travel time and paying large tolls out of pocket. As has been commonly seen in states where toll rates have been raised, traffic congestion will increase significantly on these alternative routes, adjacent communities will be disrupted, and the safety of traveling on these roads will be dramatically reduced because of the increased traffic loads.

In 2004, Governor Bob Taft directed the Ohio Department of Transportation to implement strategies to draw truckers back to the state's turnpike. The cornerstone of the plan was to provide "a meaningful toll reduction to truckers." The Governor publicly acknowledged that since tolls on the turnpike were raised by 82 percent in 1999, truck traffic on the highway had decreased dramatically and traffic congestion had increased significantly on the alternative routes. As Governor Taft stated, “My tour of routes parallel to the turnpike in northern Ohio provided a dramatic look at the heavy congestion and safety hazards caused by trucks avoiding the turnpike.” Fortunately for Governor Taft, the Ohio Turnpike was still in the public domain and the state had the ability to make the necessary adjustments to the toll rate to attract truckers back onto the roadway.

Residents of Indiana will not be so fortunate as Governor Daniels signed away control of the Indiana Toll Road and its toll rates for 75 years – leaving governors of the state yet to be born without any say over the toll road. The public will be faced with paying for roadways adjacent to the Indiana Toll Road to be improved to accommodate traffic diversions. To add insult to injury, non-compete clauses contained in Governor Daniels’ lease agreement will require the public to purchase the rights to significantly improve or add capacity to those roadways from the leasing entity. Ultimately, the citizens of northern Indiana will be left to pick up the tab and deal with the consequences.

Proponents of the asset-transfer form of public-private partnerships claim that market forces will rein in tolls imposed by private road operators. This line of reasoning falls short when you consider that those companies are only interested in roads with high traffic volumes, particularly high volumes of truck traffic, and with few alternate routes that compete for traffic. As the Macquarie Infrastructure Group stated in a presentation to their investors on the Indiana Toll Road, the road presents “minimal bypass risk.” The presentation went on to say “Each alternate route presents a number of issues for motorists,” specifically that the western alternatives are “heavily trafficked” and the eastern alternatives are “not freeway standard.”

It is laughable that officials at the U.S. Department of Transportation have tried to use the emotional, hot button issue of traffic congestion to sell the public on deals such as those in Chicago and Indiana. We are not going to disagree with the fact that congestion is a major problem in many of our nation’s urban centers. However, the companies tossing around billions of dollars to invest in U.S. roads are out to rake in as much profit as they possibly can for their own investors. Those companies are much more prone to “induce” congestion on the roads they profit from, not reduce it. You will be hard pressed to find a company willing to ink a deal without the contract including “non-compete” clauses in some form or fashion that restrict the state’s ability to expand or improve roads that compete with the toll road being sold.

There are numerous other concerns that arise from selling off our public roadways such as foreign control, instability in the debt equity market, undervaluing of public highways, asset turnover by private investors, appropriate use of funds obtained from sales, etc. and so many other problems that will arise over the course of 30, 50, 75 or 99 years.

Conclusion

Our country’s system of interstates and highways has been a major factor in boosting the United States of America to its present position of international economic dominance. It has been the central element of a coordinated infrastructure network that provides the country with the ability to efficiently move people and resources to workplaces and finished products to consumers with ever-increasing speed and reliability. The resulting economic activity has created a quality of life that continues to be envied throughout the world.

We recognize that our country is facing very difficult challenges with maintaining highways and other surface transportation facilities, when there is a need to add capacity to the overall system. We also recognize that elected officials are confronted with extremely difficult funding decisions. However, we must not fall into a "pawnshop" mentality – hocking your assets for cash now, but ultimately paying much more down the road.

We need to be looking for solid solutions that are beneficial in the short-term and especially in the long-term. Unfortunately, there are far too many public officials that are either unwilling to tighten their belts and put transportation funding toward transportation or simply are just looking for a quick fix to funding problems while they are in office, regardless of the impact in the future.

Of greatest concern is that officials at the U.S. DOT, with the blessing of the White House, are aggressively promoting the privatization of our highways. They have spent an extraordinary amount of time, effort and taxpayer resources to persuade state governments to talk with private companies and to pass legislation to enable the sale of their roads.

To be clear, we do not categorically oppose private involvement in constructing new capacity, provided the project is developed in a transparent manner, involves significant input from highway users, adds to existing capacity in an effort to relieve congestion, provides choice for users, removes fees once the project is paid for, excludes non-compete clauses, and considers state and local land rights.

We believe there are contributions the private sector can make that will assist federal, state, and local governments in better assessing the true nature and needs of our nation's infrastructure, for example, potentially limited roles for the private sector to assist the public sector in better managing and maintaining current assets without relinquishing control of those infrastructure assets.

However, as truckers and as Americans we will do all that we can to keep the roads that we have bought and continue to pay for from being sold off to the highest bidder. Selling our roads may be good for private companies and their investors, but it is certainly not good for those Americans who depend on those roads to make a living or for our nation's economic well being.

There is no doubt "leasing" our nation's highways will leave an enduring legacy on our country. Unfortunately, small business truckers have difficulty envisioning it to be a positive one.

Chairwoman DeFazio, Ranking Member Duncan and members of the Subcommittee, thank you for providing me with this opportunity to testify on behalf of the members of OOIDA.

I would be pleased to answer any questions that you may have.